

3623

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: SHEPARD ET AL. Examiner: ROBINSON BOYCE, A.  
Serial No.: 09/407,569 Group Art Unit: 3623  
Filed: SEPTEMBER 28, 1999 Docket: 10836.39US01  
Title: POSITIONING SYSTEM FOR PERCEPTION MANAGEMENT

**CERTIFICATE UNDER 37 CFR 1.8:**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on October 9, 2002.

By: Cindy Byaker  
Name:

Commissioner for Patents  
Washington, D.C. 20231

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Response
- ☒ Return postcard

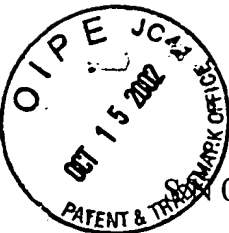
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Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

MERCHANT & GOULD P.C.  
P.O. Box 2903, Minneapolis, MN 55402-0903  
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By: [Signature]  
Name: John P. Sumner  
Reg. No.: 29,114  
JSumnersRAK





09/407,569

*8/10/02 Response*  
*L. Lewis*

PATENT

*10/18/02*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	SHEPARD ET AL.	Examiner:	ROBINSON BOYCE, A.
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By: *Cindy Bjoerker*  
Name:

RESPONSE

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OCT 17 2002

GROUP 3600

Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In response to the Office Action mailed on July 16, 2002, please consider and enter the following remarks.

In the Office Action, claims 1-106 were rejected under 35 U.S.C. § 103 based on various references. All of the rejections are respectfully traversed. Claims 1-106 remain pending. Reconsideration and allowance of all pending claims are respectfully requested.

Claims 1-106 were rejected under section 103(a) as being unpatentable. The primary reference cited in all of the rejections is Bell, U.S. Patent No. 5,424,945. The various secondary references cited in the rejections include Massand et al., U.S. Patent No. 5,251,131; Fan, U.S. Patent No. 4,930,077; and Frost, U.S. Patent No. 5,041,972. All of the rejections are respectfully traversed for the reasons stated below.

All of the pending claims 1-106 in the present application are directed to an apparatus, article of manufacture, or method for performing perception management using a plurality of visual representations. Claim 1, which recites a method, is representative of all of the independent claims. Therefore, the limitations discussed and arguments presented herein with respect to claim 1 are equally applicable to the other independent claims 19, 36, 54, 71, and 89 in the present application.

Claim 1 recites, inter alia, outputting one or more particular visual representations to a user, and receiving and storing, from the user, classification information for the visual representations. Claim 1 further recites that, through cross-referencing the classification information from the user and other users, the received classification information is distilled in order to identify the related cues that influence human behavior.

In contrast, Bell discloses an automated computer system that evaluates the psychological effect of a document by using a "point-score" system. Bell, column 16, lines 29-31. The system disclosed in Bell is automated in that the system itself analyzes and scores the document. See, e.g., Bell, abstract, lines 1-2 ("A system evaluates the psychological effect of an image embodiment in image data.") (emphasis added); and column 17, line 46 - column 18, line 9 ("The characteristics of the document . . . are also 'observed' by the system of the present invention by applying the attributes of the document to a set of visual analysis algorithms shown generally as 16."). Because the evaluation system disclosed in Bell is an automated computer system, Bell does not disclose or suggest output to or input from a user to evaluate a document.

The rejection states that Bell discloses, in column 4, lines 29-34 and column 17, lines 5-7, outputting from a computer system to a user visual representations. See, e.g., page 2 of the Action. This characterization of Bell is respectfully traversed. In column 4, lines 29-34 and as shown in Figure 1, Bell simply discloses a document. In column 17, lines 5-7, Bell discloses the creation of a document on a personal computer. However, Bell fails to disclose or suggest outputting from a computer system to a user visual representations as recited by claim 1.

The rejection also states that Bell discloses, in column 15, lines 9-18, receiving from the user classification information. This characterization is also traversed. In column 15, lines 9-18, Bell discloses a system for assigned psychological values to a color scheme, such as the Nippon scheme. However, Bell fails to disclose or suggest receiving from the use classification information as recited by claim 1.

Therefore, for at least these reasons, Bell fails to disclose at least outputting visual representations to a user and receiving classification for the visual representations from the user, as recited by claim 1 and dependents thereof. The remaining independent claims 19, 36, 54, 71, and 89, as well as the dependents thereof, contain similar limitations.

The secondary references, including Massand, Fan, and Frost, are all cited in the rejections in combination with Bell. The characterizations of Massand, Fan, and Frost provided

in the Action are not conceded. However, assuming for the purposes of this response only that the characterizations are accurate, Massand, Fan, and Frost fail to remedy the shortcomings of Bell identified above. Therefore, the combination of Bell with Massand, Fan and/or Frost fails to render any of the pending claims obvious under section 103(a). Reconsideration and allowance of claims 1-106 are respectfully requested.

In view of the above remarks, all pending claims are in condition for allowance. Favorable reconsideration in the form of a Notice of Allowance is respectfully requested. The Examiner is encouraged to contact the undersigned attorney at (612) 336-4624 with any questions regarding this application.


Respectfully submitted,

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Date: \_\_\_\_\_

10/9/02



  
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